

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
AT GALVESTON

United States Courts  
Southern District of Texas  
FILED

JUN - 9 2023

Nathan Ochsner, Clerk of Court

HERBERT DARRELL HAY a/k/a

DEBOARAH NOE,

Plaintiff,

VERSUS

UNIVERSITY OF TEXAS- - MEDICIAL BRANCH,

govnmental & Public Entity; OWENS

MURRARY, Vice-President(UTMB);

JOSEPH PENN, chief Psychiatrist;

PAULINE C. ODELL, psychiatrist;

JOACHIM K. DOZIER, GENDER SPECIALIST:

DIANELLE TSAMOURIS, Psychologist;

AND,

TEXAS DEPARTMENT CRIMINAL JUSTICE--

CORRECTIONAL INSTITUTIONS DIVISION,

govemental and Public entity;

BRYANT COLLIER, Executive Director;

BOBBY LUMKINS, TDCJ-correcial Inst.

Division's Director; Lannette

LITHICUM, TDCJ's Health Div. Director;

MOISES VILLABOBOS, warden-Pack unit;

DANA SULLIVAN, Assistant Warden--

Pack unit;

Defendants.

No. \_\_\_\_\_

C O M P L A I N T

1.  
1. PLAINTIFF HERBERT DARRELL HAY<sup>1</sup> a/k/a DEBOARAH NOE( "Plaintiff Ms. Noe"), is a Transgender woman with a female gender identity, and incarcerated at the TDCJ- Pack Unit, in Navasota,(Grimes County, Texas. Ms. Noe brings this lawsuit against UTMB &TDCJ(ADA, AND ADAAAA, and the FED. REHABILITATION ACT OF 1973) and defendants MURRAY, PENN, ODELL, TSAMOURIS, Collier, Lumkins, Linthicum, Villabobos, and Sullivan, and Dorzier.

2. MS. Noe suffers from GENDER DYSPHORIA, a rare, but serious Medicinal condition, and DISABILITY.

#. The standard of care for treatment of gender dysphoria established by the world PROFESSIONAL ASSOCIATION FOR Transgender Health("WPATH"); AMERICAN MEDICATION,("AMA"),THE AMERICAN PSYCHOLOGICAL ASSOCIATION("APA")and other major medicinal associations & mental health associations professional organizations is to live consistently with one's gender identity through counseling CROSS-sex hormones therapy, gender reassignment surgery services, and the social and legal transition to sex associated with a prisoner's gender identity.

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<sup>1</sup>due to Plaintiff's Gender Dysphoria, she uses her feminine Name: Ms. Noe hereinafter, due to TDCJ's Refusal to even acknowledge Her Feminine name, but Her legal name is Micheal Darnell Luke Noe, but TDCJ's only

4. Ms. Noe has long ago undergone(PARTIAL)the processes of Gender transition and is a woman.

5. To avoid debilitating psychological dysfunctioning and distress, Ms. Noe must be able to live consistently her female gender identity like other woman. Rather than support MS. Noe's female gender identity. Defendants(COLLECTIVELY)have undermined ms. Noe's ability to live as a woman, and in direct contraventions of established treatment recommendations, and made a ban on all surgical services, and transition(living fully as a woman)due to her sex or female gender identity. Defendants UTMB and TDCJ have, by tacit agreement conspired to prevent her from living as a woman <sup>despised</sup> her incarceration in a male or female prison based solely on her birth sex) or her female gender identity, or transgender status, and her gender dysphoria,(DISABILITY). These defendants UTMB AND TDCJ have denied her reasonable(requested)accommodiations per the grievance system. They have forced her to lived in all-male units(due to her birth sex) or her transgender status. They have subjected her to male correctional officers stripped NAKED, AND(BODILY CAVITY SEARCHES) IN THE PRESENCE OTHER TDCJ INMATES OR THIRD PERSONS NOT NECESSARY TO THE SEARCHES. (OTHER MALE OFFICERS NOT SHAKING DOWN). THEY(DEF'S UTMB & TDCJ), HARASS HER, REFUSE TO USE HER FEMININE NAME, REFUSE TO USE FEMALE PRONOUNS, refuse her privacy showers, or the equal protection given infirmary inmates (whom get a guard when the shower, but the plaintiff gets no protection from the wandering inmates, SSI-janitors, or other inmates like kitchen workers.

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int. 1. Harassment & sexual abuse, but plaintiff argues as Harassment & sexual abuse #20302 here in. (Due to her gender dysphoria, plaintiff uses the feminine name Deborah Noe, or Ms. Noe, and female pronouns, "She", "her" and Ms. Noe, or Plaintiff hereon).

6. In short, Ms. Noe is a women being forced to live, eat, defeated, sleep, and shower with men, and without appropriate reasonable accommodations that she needs for the treatment her gender dysphoria.

7. Ms. Noe, plaintiff thereby brings claims for violation of the ADA, 28 U.S.C. §12101, as amend by the ADAAA, 28 U.S.C. §§12131-12134 et seq., and FED. REHABILITATION ACT OF 1973; 29 U.S.C. §701 et seq. by violation of the "FRA. "The civil rights act of 1964, and the Fourteenth amendment of the U.S. Constitution (both the equal protection Clause and the DUE PROCESS CLAUSE of the Fourteenth amendment), to U.S. Constitution. MS. Noe seeks injunctive, nominal, and any other relief available, and any attorney fees allowed under 42 U.S.C. §1983.

#### JURISDICTION AND VENUE

8. This District Court has jurisdiction over these claims under 28 U.S.C. §§1331, 1343, as the elements of each claims are set out hereinafter(below). Many of the claims arise under FEDERAL LAW. SEE, supra ADA, ADAAA, FRA, Civil rights act of 1964, and the Fourteenth amendment of the U.S. Constitution. As well as EQUAL PROTECTION CLAUSE AND THE DUE PROCESS Clause. <sup>21</sup>

#### PARTIES

9. PLAINTIFF is HERBERT DARRELL HAY, a/k/a DEBORAH Noe ("PLAINTIFF," "MS. Noe")(SEE NOTE ONE)]. MS. Noe has been held

2. Venue is in Calveston County Texas where under 28 U.S.C. § 1391, where the majority of events took place and on life medicine in Calveston County, Texas

Parties

9. PLAINTIFF HERBERT D. HAY, TDCJ#263672 a/k/a DEBORAH NOE ("Plaintiff", "Ms. Noe") she is incarcerated at the TDCJ's PACK FACILITY, IN NAVASOTA, (Grimes county), TEXAS. She has been held at this facility, since 2018 to present date of this complaint. She is a qualified disability under ADA/ADAAA, and Rehabilitation Act of 1973.

10. Defendant UNIVERSITY OF TEXAS- MEDICAL BRANCH, ("UTMB"), a state governmental and public entity within the meaning of Section 504 of Rehabilitation Act of 1973, 29 U.S.C. §701 et seq. See 42 U.S.C. §2000d-~~(7)~~, waiver of sovereign Immunity in Section 504 cases. IN the capacity of a contractor of services to all TDCJ's inmates. She is a recipient of federal financial assistance

11. DEFENDANT Jowens MURRAY, is in the capacity of vice-president of UTMB/CMHC. IN THAT CAPACITY, Mr. murray is personally responsible for the hiring of competent professionals trained in inter-sex, lesbian, gay, Bisexual, Transgender, and gender non-conforming persons, and experienced in serving that particular population, He is responsible for their hiring, training, and conduct. He is personally responsible with ensuring that all TDCJ's male and female inmates received the equal protection of the laws, and minimal due process in the medical treatment of all TDCJ's inmates, including plaintiff. He is re-co-creator with on information and belief, with L. Lithicum, and it's implementation as the CMHC POLICY MANUAL, AND SPECIFICALLY G-51.11.

12. Defendant Joseph Penn, in the capacities of chief, psychiatrist of utmb, and (on information and belief), after resonable invesigation, is the current cōdirector of the TDCJ Gender Clinic, ~~in~~ all transgender woman, made six months trips for testing, and to meet with phyisans whom are trained and experienced in intersex, lesbian, bisexual, trangender and gender non-comforming persons, and ~~treatment~~, treatment plans, that are individualized for their special needs. He is responsible for the review, discipline, and supervision of profess- ionals, hired, and to ensure that all trangender women treatment plans are full-treatment plans meeting their individualized needs for treat- ment of their gender dysphoria, and this is done by charts reviews. He is the ulitimade policy-maker for the TDCJ Gender clinic, being the only surving co-chair, As <sup>DR.</sup> ~~MR.~~ GORDON, HAS LEFT UTMB EMPLOYMENT. He is sued in his personal and official capacities.

13. Defendant Pauline C. ODELL, is a treating psychiatrist. In that capacity, she has personally particpated in the treatment of plaintiff, and is responsble for the psychiatric, or psychotropic drugs ~~that~~ she is currently taking for her suffering serious medicial needs, of depression, anxeity, fear of strong urges to self-castrate, or committ suicide. Plaintiff has a past history of a special needs inmate, whom has a past history of self-muliation, or suicide thoughts or attempt- s to kill herself. HER TREATMENT CONSISTS OF PSYTROPIC DRUG, BUT DO NOT TREAT HER GENDER DYSPHORIA E.G. the confict that has severe symptoms.

14. Defendant JOACHIN K. DOZIER, Gender specialist, treating provider, nurse practitioner. In that capacity, she is the treating provider seeing her on DSM (telemedicine) conducted from GALVESTON, GALVESTON COUNTY), Texas. <sup>(Ms. Dozier)</sup> (She) has refused all evaluations citing TDCJ's blanket refusal to perform any surgical services for transgender women. She has refused to referral her to trained and skilled professions in intersex, lesbian, bisexual, transgender, and gender non-conforming persons., and experienced in treating them, and creating treatment plans, Hers consist mainly of blood testing, cross-sex hormone therapy she has initially ask for genital reassignment surgery service, transition (LIVING FULLY AS A WOMAN) (WHICH IS THE MAIN GOAL FOR TRANSITION OF POST-OPS, <sup>Transgender</sup> ~~TRANSITIONISM~~) (MALE TO FEMALE). Ms. Noe's reasonable, and appropriate requests for accommodations have been Denied by DR, Gordon, whom told her TDCJ will not pay the costs associated with gender dysphoria. MS, DOZIER, as<sup>10</sup> repeatedly denied the reasonable request for accommodation. Both MRS GORDON AND DOZIER's repeated denials off have directly and approximately resulted from their statements to her, [which are offered not to prove the truth of these statements, but only offered to prove that they were said.]. (Fed. R. of EVID, rule<sup>201</sup>). She also prescribed her cross-sex female hormones ~~ESTRDIOAL~~ <sup>5</sup> (MILLGRAMS INJECTIONS) and <sup>more</sup> testosterone-inhibitors [MEDROXYPROGESTERONE] (that reduce, and causal connection to the physical reduction in the size of her testes. And lead to inferiority of Reproduction impairment. SHE has been issued female bras, but

Mrs. Dozier has neglected her testing(blood work)for one year, and has refused to allow,Plaintiff evaluations, by trained and experienced professionals whom are recommended<sup>as MP</sup> by the Startard of care in the 7th edition of the Wpath. The result of this is that she has suffered unnecessary and wanton infliction of pain and suffering to her present and future health and safety.(the real possibilty of physical injury or death; revealed by her suffering and pain of Depression, anxesity, and fear of strong urges to self-castrate', or suicide. Sometimes these become so overwhelming that she as required<sup>at ADA</sup> Restrictive housing, and twenty-four hours watch, Only through her resilience she has been able to overcomes those strong urges to self-castrated herself. Her medical Plan is limited by the banned surgery service. She has experienced these disorders, a serious medical need, and it has severely impaired herability to basic life activities, and her sole claim is that TDCJ will not reasonably accommodate her requests. But no reasons are given for the denial of individualized treatment plan.

15. Defendant Dianelle tsamouris is a psycholdist working seven different unit, and since been moved to other duties after filing a OPI(offender PROTECTION INVesigation)on his behalf resulting in a serious disagreement with DANA SULLIVAN). She is to provide supportive services under G-51.11 CMH,



She(Tsamouris)is not trained or experienced in treating intersex, lesbian, bisexual, transgender, or gender non-conforming persons as recommended by Wpath.org's Standard Of Care,(7th Edition) But she tried to do so.

16. Defendant Kolton Stover in the capacity of practice manager(UTMB), In that capacity, he is personally responsible for the implementation of H-61.1 and G-51.11 Both regulations are based on state law(STATE-CREATED RIGHTS), GOVerning the privacy of transgender status, and treatment of transgender woman. He deprived plaintiff of doctor --patient information of Gender Dysphoria, by releasing that information without taking any steps to protect her from such disclosure of such information from her confidentiality wof that information. Thus, violating <sup>by</sup> ~~clearly~~ established law. Plaintiff exhausted her state-administrative remedies by filing step 1 and 2 (both denied), exhausting this by all available remedies. On information and belief, Defendant has violated, <sup>her privacy</sup> by personally conducting informally <sup>remedies</sup> ~~remedies~~, including ~~IT-60's~~ <sup>IT-60's going through the regular mail.</sup>

17. Defendant TEXAS DEPARTMENT OF CRIMINAL JUSTICE- - CORRECTIONAL INSTITUTION DIVISION, a state of Texas, And, a PUBLIC entity. IT is a ~~recipient~~ of Federal financil assistances within the meaning of the Rehabilitation Act of 1973, See, 42 U.S.C. § 2000d-7 <sup>Federal</sup> "states that states recieving ~~and~~ finan-

18. Defendant BRYANT COLLIER is the Executive Director of TDCJ, And, in that capacities is resonsible for the Administrate Directives and the CMHC's Policy Manuel, He is the highest policy-maker, and the highest officer & leader of TDCJ's guards, employee, and, contractors (UTMB). He is responsible for the day-to-day operationof TDCJ, and has the power to delegate those powers to BOBBY LUMPKINS, Wardens VILLABOBOS, AND SULLIVAN, and it's Divisions. He is the ultimate resoponsible Hiring of guards, employees, and contractors, and is responsible for their hiring, training, discipline of all TDCJ's guards, employees, and contractors for TDCJ. He is sued in his official and personal capacities.

19. Defendant BOBBY LUMPKINS, Is the director of the Correctional Institution divisions, and their directors and deputy director. In that capacity, He is responsible for the security, humane treatment of all TDCJ inmates; he is responsible for the day-to-day operations of TDCJ and all it's divisions. He is responbile for *Discipline, Training* He is sued in his personal CAPACITY AND OFFICIAL CAPACITIES.

20. Defendant LANNETTE LINTHICUM is the Director of the HEALTH service Division of CID <sup>(?)</sup> DIVISION? On information and belief, after reasonable investigation, Defendant linthicum is the Step 2, (RESPONSIBLE FOR ALL MEDICIAL GRIEVANCES), <sup>(Reasons.)</sup> AND SHE HAS DENIED THE reasonable accommodiates requested by plaintiff. She is sued in her (LINTHICUM) personal and official capacities, ~~Reasons~~.

21. Defendant MOISES VILLALOBOS, IS THE Warden of Pack unit (TDCJ), and in that capacity, He is responsible for the day-to-day operation of Pack unit, as delegated by COLLIER, AND LUMPKINS, and meets daily with the Pack unit medical team. He is responsible for Implementation of G-51.11, H-61.1, And AD-04.17(REV. 5), AND, AD-04.68.

22. Defendant DANA Sullivan is the Assistant Warden, of Pack unit. At all times mention in this complaint, He held the rank of major; then Assistant Warden. He is normally the first level responder at step 1; I-127). HE has denied Step 1 grievances. He is sued in his personal and official capacities.

23. Each defendant is, on information and belief, a resident of state of Texas. Each defendant(COLLECTIVELY)'s acted at all times in this complaint under the color of state law. ONLY UTMB AND TDCJ ARE SUED UNDER THE ADA, ADAAA, AND Federal REHABILITATION ACT of 1973, ~~CIVIL RIGHTS ACT OF 1964~~, Are sued for violation of THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.( of the EQUAL PROTECTION CLAUSE, AND THE DUE PROCESS CLAUSE). The individuals defendants are <sup>sued</sup> only for nominal damages of \$1.00(one dollar). Defendants UTMB are sued for whatever relief he shows himself entitled to; PRELIMINARY INJUNCTIVE RELIEF IS REQUESTED.

#### FACTUAL ALLEGATIONS OF COMPLAINT

##### GENDER DYSPHORIA

24. GENDER DYSPHORIA, AS DEFINED BY THE FIFTH EDITION OF THE

of the Diagnostic and Statistical Manual of Mental Health disorders("DSM-V"), is a medical condition in which there is a marked incongruence between one's experienced or expressed gender and (one's (assigned sex at birth,) lasting for at least 6 months and manifested through at least two of the following symptoms:

- a. a marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics.
- b. A strong desire to be rid of one's primary or secondary because of a marked incongruence with one's experienced / expressed gender.
- c. A strong desire for the primary and/or secondary sex characteristics of other gender.
- d. A strong desire to be the gender (or some alternative gender different from one's assigned gender).
- e. A strong desire to be treated as the other gender( or alternative gender different from one's assigned gender).
- f. A strong conviction that one's has the typical feeling and reactions of the other gender (or some alternative gender different from one's assigned gender).

25. A person with Gender Dysphoria experiences clinical distress from having a gender identity - - an internalized sense of being male or female - - that is different than his or her assigned sex and gender at birth.

26. Gender Dysphoria is associated with high levels of

30. Being treated as a boy by her parents, gave her an insight into the experiences of being treated as a male by TDCJ's blanket ban on all transgender services and programs, or other activities in TDCJ, including being treated as a male inmate in an all-male prison facility, but that has not stopped Ms. Noe from experiencing and suffering from serious impairment to her health and physical safety. Such as suffering from serious depression, anxiety, strong urges to self-castrate (self-mutilation), or suicides' attempts, when they become so overwhelming that she has to seek assistance from the mental health department. In which, in 2007, upon arrival in TDCJ, she told them she was a transgender woman, and had a feminine Name of Deborah Noe, (as she legally change her name to Michael Darnell Luke Noe , but went by Debbie Noe. She has lived as a woman for over a year in her teens, and as an adult [but almost five decades ago, she sought from TDCJ's Mental Health Department; she asked psychologist Kerribe, and doctor Howard, to approve her for sex reassignment surgery services, or programs, but they denied those requests and treated her as if she was crazy.]). They would only give her psychotropic drugs, which they are still doing to treat her depression and other serious mental health issues in TDCJ. She was not Diagnosis with gender dysphoria (previously it had been (Gender identity disorder), but now Gender Dysphoria.

MS. Noe's Experience As A TDCJ Prisoner

31. Plaintiff Returned to TDCJ, after parole on December 07, 2007, and ~~Subsequently~~ transferred to the Pack unit in Navasota, (Grimes County), Texas. She is eligible for parole in 2025. <sup>not</sup>

32. As previously stated, She entered TDCJ again, in 2007, And she informed TDCJ's staff that she was a transgender woman. She also told them that she had changed her name in a State of Texas district Court. Her driver's Lic. and Federal Social Security Card was in that name, and on her committment papers. She ask to be called by that name.

33. During her time confined at Pack Unit, she was Classified as a Medical transfer due to her COPD, and other illnesses(Heat Restricted, Class Member in(Keith Cole Vs. Collier)class action). She was given a Single-level Facility, so she was transferred to Pack Unit in March 14, 2014.

34. At Pack Unit, she was assigned to a dorminatory(Alpha Section, Dorm 1. Like most writ writers, she experienced discrimination In disciplinary problems like most of the writ writer, <sup>subject to</sup> But unlike most writ writers, the plaintiff was dependant upon prison officers to protect her, but they also discriminated toward her, due her transgender status, or birth sex(e,g. she was assigned to all-male units (due to her birth sex), or genitalia, [male sex), under the outdated sex stereotyping

by prison staff/defendants(UTMB & TDCJ ), FORCING HER to live, sleep, shower, and use the restroom with TDCJ's inmates, without any special precaution being taken by (defendants(collectively) after being assigned to general population in all-male facilities In TDCJ.

35. In March, 2020, After the ~~ninth month~~ <sup>(March 2020)</sup>, TDCJ was placed on systematically lockdown(all units)and all recreation (indoor and outdoor) was denied to all inmates,(for a total of seven months, THEY Were confined by TDCJ to a seven by 10 squared-feet.(FOR A TOTAL OF 47 sq. feet) All medical transfers were stopprd to the TDC Gender clinic in 2020. After that point all TDC GENDER CLINIC APPOINTMENTS WERE CONDUCTED USING, WHAT I CALL(DSM)APPOINTMENTS(TELEMEDICINE)from GALESTON, (GALVESTON COUNTY, STATE OF TEXAS. On 03/11/2019, plaintiff, Ms. Noe was given a comprehensive medical exam by TWO PHYSICANS, Whom diagnosis her with suffering from GENDER DYSPHORIA.These professionals were trained, and experience in treating, intersex, Lesbian,Gay, Bisexual, transgender, and gender-non-conforming persons, as directed by Wpath.org's Standard of Care. See, (Exhibit seven) attached to Appendix One, attached to complaint. Ms. Dozier Advised the plaintiff that the sole basis of her deial each time she was seen, based on an Administrive policy, [on information and belief), after reasonable investigation, WAS LOCATED IN THE 2019 FORMULARY]. [this policy is based on ~~whether~~ <sup>whether</sup> or not it was life-threatening, or elective]. Ms. Dozier,

EACH TIME THAT SHE SEEN<sup>she</sup>, WOULD DENY THE REASONABLE ACCOMMODATIONS REQUESTED BY THE PLAINTIFF, using the TDCJ ORIENTATION HAND ~~BOOK~~ <sup>See, EXHIBIT 1, Attached to Appendix ONE</sup>. She was denied by ms. Dozier, for administrative reasons, not medical reasons all referrals to a physician (two for sex reassignment surgery's services. This denial was due to Ms. Dozier's reliance on this policy, and she repeatedly refused to make those referrals, or conduct the evaluations medically necessary under the WPATH.Org.'s STANDARD OF CARE. See page \_\_. Attached to Appendix ONE, Ex. 7 Plaintiff had started filing GRIEVANCES From the Denial of Dr. Gordon's denial on March 11, <sup>(a</sup> Common blanket ban on all non-life-threatening, or elective surgery services, or Transition, (Ms. Noe wanted from her arrival in 2007, <sup>in</sup> these services, or programming [that had started five decades ago with a request to Psychologist Kerribi, and denied by Dr. Howard in 1980]. She was given only psychologist therapy. She has a serious past history of self-mutilations, and suicidal attempts before ~~in~~ <sup>in</sup> 2004.

36. Ms. Noe suffers from, after that point, serious medical mental health needs to treat her (Depression, anxiety, strong urges to self-castrate herself, and these urges would become so overwhelming, and impair her basic life activities (resulting in restrictive housing and 24 hrs. watch, in pain causing, and physical pain and suffering that serves no penological interest in a stripped cell with no bedding, mattress, sheets, blankets, or suicide mattress--resulting in ~~physical~~ <sup>physical</sup> pain and suffering on a cold steel bunk.



37. Upon her return to Pack unit in Febry., 2018, She has MAINTAINED a request for surgery services, and transitioning programing. This was denied by Mrs. Gordon, <sup>or Provider</sup> and Ms. Dozier treating physican, She timey appealed Filing a step 1, and step 2 grievances, exhustion her administive remedies, every year after that <sup>until</sup> ~~until~~ 2022. Ms. Dozier's denials of evaluations, or referrals, were due to TDCJ's policies, practices, in im<sup>p</sup>lementation of and ban on her efforts to have reasonable accomodations requested through th TDCJ orientation handb<sup>o</sup>ok, page two. ~~See, appendix ONE, Ex. 2~~ That says that all ADA claims will be filed through TDCJ's administrative grievance system.

38. During the lockdown, Plaintiff was denied showers (by MR. WILLIAMS, AND LT. Brown), Inmates were allowed to come into the shower area, which has no door, just an opening into the showers, this allows wandering males, janitors, to observe her dressing or <sup>undressing</sup> ~~undressing~~, or showering, where they can observe her naked with breast, and other genitalia exposed. She filed step one (I-127, & step 2 (I-128) exhausting administrative remedies. Each time that it occurred, or reported it to Ms. Shields, safe prison/ PREA manager. They were denied on the merits and all reasonable accomodations were denied. Mr William and Lt. Brown refused to allow her to shower in the infirmary, during the lockdown. Instead Mr. williams tried to get Ms. Noe to shower with other inmates; telling her "that's okay, they won't look at you!" When Plaintiff <sup>or</sup> other inmates came into the shower as he did not secure the door, ~~(preventing other inmates from coming in the showers)~~ while she showered, plaintiff complained to Lt. Brown, and he refused to take any action.

39. Plaintiff <sup>discussed</sup> ~~discussed~~ this with TDCJ's staff, and repeatedly complained each time that it occurred, to exhaust her Step One and step 2 Grievances, and TDCJ's staff; as well, as her corresponding fear of showering under unsafe conditions. Since these events where reoccurring (defendants complaints of injury and a serious risk of sexual abuse or assault could occurred. Defendant complained of part-officers of discrimination by allowing it to reoccurred.

40. When she was housed on different Units (la Blanc, and Travis County Jail facilities), she was given privacy showers out-of-the-presence of TDCJ inmates, but at TDCJ= Pack unit, the discrimination was <sup>still</sup> ~~was~~ occurring, that she had to complain repeatedly. In response to the overwhelming stress of not being able to shower safely, she complained to the psychologist Tsamouris about the unsafe conditions that security staff was subjecting her to and that if she continued to be mistreated by staff, she feared hurting herself. She had been repeatedly denied reasonable accomodation due to her gender Dysphoria, that it was creating an unreasonable conflict and anxiety, or thoughts of hurting herself by castrating herself.

41. TDCJ later provided a, what is called a PREA SHOWER CURTAIN for transgender woman to use. However, <sup>un-known</sup> ~~un-known~~ TDCJ inmates have removed <sup>ices</sup> ~~pieces~~ of this shower curtain. <sup>Leaving</sup>

it ill-repaired, where it could not cover her body while she showered, and exposing her to inmates coming back and seeing her genitalia. Some of these inmates physically threatened her and she reported it to the security correctional officer on duty, <sup>ick</sup> ~~who~~ did not logged it, or report it to their supervisor, however, plaintiff reported it to Ms. Shields, and filed a step 1 and step 2 grievances and they were denied at both levels, and since these events were reoccurring all defendants had the power to take remedial measures to stop it, but didn't.

42. The opaque section of the shower curtain ,however, does not line up, or would drop away while she was showering, allowing wandering patients whom doors (were left open by nurses allowed) most inmates coming by to see her breast and most of her naked body, including her genitalia. Simply put, no curtain is sufficient to protect her privacy or safety while showering as long as activities occur while she is showering, and no guard is present, as allowed for the infirmaries inmates (the males that go out of their way to observe her in the showers.

43. Ms. Noe's inability to shower without the presence of men <sup>sons</sup> has exacerbated her gender dysphoria, and disrupted her treatment.

44. Although some TDCJ CORRECTIONAL OFFICERS REFER TO MS Noe as a female and properly use her chosen female name most do not, particularly like Dana sullivan, whom was

informed by Ms. Tsamouris that he should refer to her using a chosen female name, and he refused to do so, and he is a leader of correctional officers[major] and, later assistant warden). He also refused to use female pronouns when talking to or about her. Indeed certain correctional officers like Ms. <sup>mitchell</sup>~~Mitchell~~, told her as long as she had a dick, or penis, then no one is going to recognise you as a female. (or words to that effect, offered only to prove it was said, not the truth of the statements).

45. Ms. Noe is also verally harassed and physically threatened, By TDCJ inmates because she has gender dysphoria. TDCJ prisoners have entered her <sup>cubicle</sup>~~cubicle~~ on the dorm, and deride her and try to intimidate her, others' fondled her, because they are not enough staff assigned to her dorm, or they have been re-position illegally in violation of the clearly established law, that a reasonable person would know violated the plaintiff's civil rights. They have been written up only once for entering plaintiff's cubicle, In the last ~~six~~ years. To avoid these threats or harassment, Ms. Noe often skips meals or avoid group activities. She is often avoids the back dayroom because it is so dark back there, and she has been repeatedly proposition for sex, or confronted with threats of violence for being a snitch. In short, her daily life activities are significantly impaired by defendants inaction or acts.

Ms. Noe's Gender Dysphoria Treatment Plan

46. Ms. Noe was seen by TDCJ's contracted Health Care

provides, Ms. E. Gordon, treating Physican, and other physican trained and experienced in, intersex, lesbian, bisexual, transgender, and gender non-conforming person as recommended by the 7th. Ed. of the World Health Association on Transgender health, (WPATH.Org's Standard of care, ("SOC")). See exhibit 7, attached to Appendix One.

47. On March 11, 2019, her initial mental health appraisal was conducted by Ms. Dozier, np in (Dec., 2018), and followed up by two Phycians (dr. Gordon, a family Physican. She explained that while she recognize at a early age that she was different than most boys, as she prefered dolls and dresses, Her family did not ~~agree~~ <sup>agree</sup> and this lead to an early conflict with authority, teachers, and the police. It lead to antisocial behavior that lead her family to beleive that she was mentally ill, But it wasn't till 1980, that she requested a sex change and implants, but was only given psychotropic drugs to treat her symptoms, instead of the cause (GID -- GENDER IDENTITY DISORDER), And, she was Diagonsis with Gender Dysphoria, by Dr. Gordon, and another phsysican. She made the request to dr. Howard and Psychologist Kerribi. All treatment was denied except for psychological therapy. Five decades later, due to changes in policies, Her prcess was reconsidered and she was diagnosis with Gender Dysphoria. Wpath recommendation that only qualified experience and trained professionals evaluate her for a sex change surgery services, and transition programing, however this was repeatedly denial by Ms. Dozier, Whom cited TDCJ's ban on paying for trans-

gender health care, And on information and belief, after reasonable investigation, plaintiff has learned that the policies appeared in the Formulary, 2019. It basically says in lay terms; that all non-elective threatment that is not life-threatening will be denied by TDCJ staff. While this would appear to be netural, it is applied in a disparitive manner to Intersex, lesbian, bisexuals, transgender, and gender non-conforming persons, and such policies are discriminatory to the plaintiff's disability of gender Dysphoria.

48. After reviewing Ms. Noe's mental health and informing her of the treatment recommened, but not limited to that treatment, Ms. Noe was started on cross-sex female hormones and other testr-~limiting drugs by Ms. Dozier in Pill form. however, Dr. Gordon at the second evaluation, change this to injections of estr<sup>g</sup>en, 5 cc. She was also issued bras's Passes. Due to the growth of breast, softing of skin, and <sup>repositioning</sup> ~~repositioning~~ of fat cells, around her body that fem<sup>z</sup>ized her appearance. This had a negative effect on the TDCJ's inmate population that increased the inappropriate touching by staff members and TDCJ's male inmates. She reported these incidents by filing step 1 and step two greivances, when she recieved the denials in TDCJ's responses refusing to accomodate her request. Her treatment plan did not change much in the next five(5) years. It consisted of no goals or recommendations for individualized treatment plans. but not due to the Plaintiff's efforts to get TDCJ to comply with reasonable adjustments to her Plans. She requested at each session of her gender clinic appointments(until 2022. She was repeatedly told that they were denied due to TDCJ's refusal,

to pay the costs, while similarly-situated <sup>(non-transgender women)</sup> inmates received such services from the surgery services provided to TDCJ's inmates (both male and female), the denial of reasonable accommodations was due to TDCJ's discriminatory, intentional, and knowingly violation of established law, under both federal law (ADA/ADAAA, Fed. Rehabilitation Act of 1973, and the Fourteenth amendments [Equal Protection Clause and Due Process Clause of the U.S. Constitution. Ms. Noe thoroughly investigated her Gender Dysphoria diagnosis, and obtained copies of the ] WPATH.org's STANDARD OF CARE, and instructions on transition, (living fully as a woman, by obtaining Guides by Experts). -/.

Her Plan also referral to the Unit Mental health dept, for supportive care by a psychologist. She had a problem getting that help, as none of the psychologist were trained or experienced in intersex, lesbian, bisexuals, transgender, or gender non-conforming persons. Her primary Care clinician was Ms. Dianelle Tsamouris, UPC; however she had no training in such area's. Through she had a double Master's degree, it was in another area of mental health, And she only offer to give her therapy from a list of illnesses that had nothing to <sup>do</sup> ~~do~~ with treatment of Gender Dysphoria, but only treated the symptoms. She referral her to Mrs. Pauline C. Odell, Psychiatrist, whom treated her symptoms, not her Gender Dysphoria. As a result, initially, plaintiff complained of the lack of experience and skill in treating GD, and because it exacerbated her GD, But due to her training, skill, and interest, working with Ms. Tsa-

mouris. She became ~~and~~ advocate.

49. As a Class of one, the plaintiff would assert that TDCJ's policies [IN THE FORMULARY 2019, and <sup>UTMBH</sup> ~~UTMB~~ policy Manual, 51.11 as <sup>implemented</sup> ~~implempted~~ by UTMB and TDCJ, has had a disparate impact on discrimination toward the transgenders status that is irrational, and unreasonable, which by tacit agreement between TDCJ and UTMB, UTMB has deprived the plaintiff of medically necessary Mental health treatment AND PROGRAMING, SERVICES, AND activities that violated professional standards of care. See, 7th Edition of WPATH.org's SOC.

Ms. Noe's requests for accomiations for her disabilities

50. Ms. Noe requested from TDCJ and UTMB to made app-rotated, accomodations for her gender Dysphoria in order to prevent a serious risk to her health and safety, that could result in serious injury or death to her future health and safety.

This dicrimination due to her disabiltied resulted in the <sup>unnecessary</sup> ~~unecessary~~ pain and suffering. Ms. Noe complained about her need for additional protection in general population, that TDCJ and UTMB refused to provide. This was in response to her need for special tranportation, that was denied by UTMB and TDCJ, because no investigation was conducted by Defendants.

51. Defendants UTMB offer no Remedial mea<sup>s</sup>ures to protect her from sexual assault or abused or harassment. Moreover, Neither UTMB offer to give her individualized treatment for seious medical needs, by simply deferring to TDCJ, and refusing her requested referrals, or evalutions for her serious medical needs, and disabilities.



CAUSES OF ACTION

COUNT ONE

( ADA/ADAAA-DISCRIMINATION/FAILURE TO ACCOMODATE)  
( TDCJ & UTM B )

52. Ms. Noe, plaintiff incorporates by reference the preceding paragraphs of her complaint as though fully set forth herein.

Defendants UTMB AND TDCJ have violated the ADA, 42 U.S.C §12101 et seq. as amended in 2008 by the ADA Amendment Act of 2010(effective date), SEE, 42 U.S.C. §§ 12131-12134, et seq, by discriminating against Ms. Noe on the basis of her disability. The discrimination includes:

a. Refusing her medical evaluations by trained and experienced Professionals with intersex, lesbian, bisexual, transgender, and gender non-conforming person as recommended by WPATH.org's STANDARD OF CARE, ("SOC"), being with Dr. Gordon, and other physicans. Nurse Practioner-provider <sup>(Dozier)</sup> claimed in the last interview(Exam)(six month review), She refused to perform each time she seen her, excepted the last, then she said ~~"that"~~ <sup>"she could do the evaluations"</sup>; but each time that she was seen, ms. dozier, she refused to exerice that <sup>discretion</sup> ~~discretion~~ saying that "THAT TDCJ WILL NOT PAY FOR THIS." (An exception to the general hersay rule, (As plaintiff is not trying to prove that it is true, but only that she said it to the plaintiff). She also refused to referral her <sup>to</sup> two physicans recommended by the WPATH.org's SOC. See exhibit 7, attached to Appendix One.

b. Refusing to transfer the plaintiff, <sup>to a female unit,</sup> or to put him in "safekeeping" in general <sup>2/</sup>population. This denial by Dana Sullivan, major (At the time of the incident, and the assistant warden of Pack unit the other times). They initially, (in 2007, Determined her gender by (her birth sex, or genitalia). While they claimed in step 1,'s Responses. That they made a PREA INDIVIDUALIZED EVALUTIONS, BUT THAT WAS PREtextual as the plaintiff was there, and Mr. Sullivan did not mentioned any PREA individuals, and he was only concern <sup>whether</sup> ~~whether~~ or not that plaintiff could prove an immient potential attack on his person. While plaintiff proved that a series of physical attacks occurred, (on 02/08/2020, and again on 11/06/22), and that he testified that plaintiff had been sexually assaulted twice in 2020, and she was being sexually assault (by Mrs. Brown) twice in 2021, and 2020, and by Mrs. Woodard, by touching her breasts. (Each incident they took the word of the officer, over the inmates' word), each time none of the witnesses were interviewed during the investigations). Defendants have refused transfer AT STEP 1 and 2 Responses, and denied requested accomodations. They refused his reasonable requests for ac-comodations, by transferring her to a female unit, or placing her in safekeeping, or P.C.

c. Refusing to train TDCJ Staff, and employees, and contractors on how to appropriately, treat, and communicate with individuals with Gender Dysphoria.

d. Refusing to use her chosen female name when addresses or referring to Ms. Noe;

e. Refusing to use female pronouns when addressing or referring to Ms. Noe;

f. Allowing male correctional officers to perform, on a daiy basis, stripped searches (NAKED) in the front of other TDCJ's inmates, and allowing wandering patients, WHOM (their doors were left un-locked by Medical staff) discriminating against her Gender Dysphoria, by these intentional acts or omissions), within the personal knowledge of Mr. stover, ~~Practice~~ <sup>Practice</sup> Manger, whom was made aware of it by the filing of step 1 & 2 grievances, that exhusted Administrate remedies; he is more concern with towels and clothes, then he is about whether male inmates observed her naked in the open showers which doesn't have a door, (just an opening, that anyone may enter at any time, that they want to view her naked, with Breast exposed and other genitalia exposed, ~~that~~ that causes her to be humilatiated and degraded by such viewing, as Mr. stover is fully responsible for the infirm-ary, and it's ~~maina~~ maintenance. Mr. Stover personally and with delibertly indifferent to her serious medical need for single-celled status, He was delibertely indifferent to her serious needs for safety and privacy, when the release of that information to the public can an.do subjecting her to ,

her to intolerance, physical assault or sexual abuse, and discrimination due to her Gender Dysphoria. She has been denied relief, as the step 1 Responder addressing the issue. He only upholds his staff, as he is himself, bias and prejudice toward Lesbian, bisexuals, transgender, and Gender non-conforming persons. He has Pre-knowledge as he was the responder to complaints about other infirmary workers violating CMHCC's Policy Manual, H--61.1. (Governing the confidentiality of medical or mental health information, (whether oral, or by the release of documents)). He revealed her transgender status, (deliberately indifferent to the results), which resulted in physical and sexual harassment by those inmates to whom he revealed it to. In retaliation, for exercising protected conduct [petitioning the government for the redress of her grievances filed prior to and about others violating her right to privacy).

g. Plaintiff seeks the expungement of the denial of her disciplinary, which an inmate attacked the plaintiff on 02/08/2020. Plaintiff filed a step 1 & 2 grievances exhausting her administrative remedies. She was denied relief at both levels (for being the victim of assault (Physically)), and in which Sgt Campbell and Mrs. Sanders delayed and watched the inmate physically assault her causing serious injury to her person. (and again she was physically attacked by another inmate, whom both used gender epithets (calling her a Bitch the first time and PUNK, BITCH, AND FAGGOTT the second time)).

53. Defendants UTMB and TDCJ violated the ADA/ADAAA, by failing to provide her the aforementioned reasonable accommodations.

54. None of Ms. Noe's requested accommodations "would materially impair the safe and efficient operation of the program, service, or activities, present a safety hazard to the individuals or staff, threatened the security of the correctional institution/facility. "

55. Nor would any of Ms. Noe's requested accommodations "fundamentally alter the nature of [any] services, programs, or activity." 28 C. F. R. §35.130(b)(7).

56. Defendants' actions and failure to accommodate Ms. Noe's attempts to alleviate the stresses caused by her Gender Dysphoria have cause Ms. Noe to suffer from depression, anxiety, and suffer strong urges to self-castrate, or suicide, (sometimes these urges become so overwhelming that she has to ask for help), from mental health staff. As a direct result or proximate casual connection, to the conduct of Defendants and their gender clinic staff and TDCJ's Staff, whom acquiesced in those acts and the step 2 responses denying any accommodations to plaintiff, (whom on information and belief, after reasonable investigation, is empowered to grant the relief requested by plaintiff). Defendant Linthicum, is the highest delegated authority in the grievance process for TDCJ to grant the requested relief to be accommodated by the grievances (second level) for (medical complaints) from the denial and delay of treatments, for her serious medical, <sup>real,</sup> and

disability; and, impaired Ms. 's ability to participate in basic Life activities.

57. Plaintiff's major life activities are impaired by the Reproduction[inferitality], the endocrine system[ causes physical changes in the brain due to cross-sex hormones in the gestation period], ability to care for oneself[lifetime medication], abilities to socially interact with others[intolerance, discrimination because of her transgender status, female gender identity]. These impairments are substantial and have a physical cause, under the clearly established law. Plaintiff is a qualified individual under The ADA/ADA Amendment Act of 2008, due to intentional discrimination / or failure to accommodation for the basis of her disability.[Gender Dysphoria].

## COUNT TWO

( REHABILITATION ACT- -DISCRIMINATION/Failure To Accommodate)

( Defendants's UTMB AND TDCJ )

58. Ms. Noe incorporates by reference the preceding paragraphs in the complaint as fully set forth herein.

59. Defendants' violated the Rehabilitation Act of 1973, 29 U.S.C. §§701 et seq. , by discriminating against Ms. Noe on the basis of her disability.

60. Defendants discriminatory actions and failure to accommodate Ms. Noe's attempts to alleviate the stresses caused Ms. Noe to suffer from Depression, anxiety, strong urges to self-

castrate or suicide; and, have impaired Ms. Noe's ability to participate in basic life activities. Defendants' acts in violation of the Rehabilitation Act include:

a. Refusing her medical <sup>evaluations</sup> ~~examinations~~ by trained and experienced professionals with intersex, , lesbian, Bisexual, Transgender, and gender non-conforming persons as recommended by WPATH.gov/Standard of Care, (SOC.), being Dr. Gordon, and with other physicians. Nurse Practitioner-provider claimed in the last interview (EXAM) (six month review,) she refused to perform each time she seen plaintiff, excepted the last, then she said. "She could do the evaluations, but each time that plaintiff was seen, Ms. Dozier, ~~Ms. Dozier~~, she refused to exercise that discretion saying. "That TDCJ will not pay for this." (an acceptance to the hearsay rule is when you are not trying to prove the truth of the matter asserted, , but only that it was said.). She also refused <sup>S to</sup> referrals her to physicians as recommended by WPATH.org's SOC. See exhibit 7, Attached to Appendix One.

b. Refusing to transfer the plaintiff, or to put <sup>her</sup> ~~her~~ <sup>HOF</sup> in "safekeeping" in general population. This denial was by Dana Sullivan, Major, and the assistant Warden of Pack unit, the other times. They initially, (in 2007), Determine her gender by her birth sex, or genitalia. While They claimed in Step 1 Responses. That they made a PREA individualized evaluation, but that was pretextual as the plaintiff was was there, and Mr. Sullivan did not mentioned any PREA individual, and he was only concern whether an imminent potential attack on his person.

While plaintiff proved that a series of attacks occurred, (on 02/08/2020, and again on 11/06/22, and that he testified that plaintiff has been sexually assaulted by Mrs. Brown twice in 2021 and again on 2022, and by Mrs. Woodard by touching her breast in Pat-down searches (each incident they took the word of the officer over the inmates' word), each time none of the witnesses were interviewed during the investigations). Defendants' have refused transfer at Step 1 & 2 Responses, and denied requested accommodations, They refused his reasonable request for accommodations, by transferring her to a female unit, or placing her in safekeeping, or P.C.

c. Refusing to train TDCJ staff, and employees, and contractors on how to appropriately, treat, and communicate with individuals with Gender Dysphoria.

d. Refusing to use her chosen female name when addresses, or refering to Ms. Noe;

e. Refusing to use female pronoun when addressing or referring to Ms. Noe;

f. Allowing male correctional officers to perform, on a daily basis stripped searches (naked) in the front of other TDCJ;s inmates, and allowing wandering patients, whom their doors were left un-locked by medical staff discriminating against her Gender Dysphoria, by these intentional acts and omissions, within the personal of Mr. Stover, Practice manager, whom was made aware it by filing Step 1 & 2 greivances, that exhusted adminstrative remedies; he is more concern with towels and clothing then he is about whether or not whether or not male inmates observed



her naked in the open shower which doesn't have a door, just an opening that anyone may enter at any time want to view her naked, with breast exposed and other genitalia exposed, that causes her to be humiliated and degraded by such viewing, as Mr. Stover is fully responsible for the infirmary, and it's maintenance. Mr. Stover personally and with deliberate indifference to her serious medical need single-celled status, He was deliberately indifference to her serious needs for safety and privacy, when the release of that information to the public can do subjecting her to intolerance, physical assault or sexual abuse , and discrimination due to her gender Dysphoria. He only upholds<sup>d</sup> his staff, as he is bias and prejudice toward lesbian, bisexuals, transgender, and gender non-conforming persons. He has pre-knowledge, as he was the First-level to complaints about other infirmary workers violating CMHCC's Poly Manual, H-61,1 (Governing the confidentiality of medical or mental information, whether oral or by the release of documents. Mr. Stover revealed her transgender status, deliberately indifferent to the results, which resulted in physical and sexual harassment by those inmates to whom he<sup>e</sup> revealed it to. In retaliation for exercising protected conduct [petitioning the government for the redress of grievances filed prior to and about others violating her rights to privacy].

g. Plaintiff seeks the expungement of of the denial

her disciplinary, which and inmate attacked her on 02/08/2020. Plaintiff filed a step 1 & 2, grievance exhausting her administrative remedies. She was denied relief at both levels for being a victim of assaults.(physically), and in which Sgt. Campbell and Sanders delayed and watched the inmate physically assault her causing serious physical injuries to her person, (and again she was physically assaulted by other inmate, both whom used gender epithets(calling her a bitch; the first time, and Bitch, Punk, and Faggot, the second time).

61. Defendants' actions and failure to accommodate Ms. Noe's attempts to alleviate the stresses caused by her Gender Dysphoria have caused Ms. Noe to suffer from Depression, anxiety, and strong urges to self-castrate, or suicide, <sup>vide</sup> ~~not~~ have impaired her ability to participate in basic life activities.

#### COUNT FOUR

(FOURTEENTH AMENDMENT OF THE U.S. Constitution--DUE PROCESS Clause)

(Defendants Collier, Lumpkin, Linthicum, Mosises Villaboso, Sullivan), <sup>Dozier</sup>  
( and all UTMB's Defendants)

62. Ms. Noe incorporates by reference the preceding paragraphs of her Complaint as though set forth herein.

63. The Due Process Clause of the Fourteenth Amendment prohibits state government from depriving individuals of their property, or liberty interests without Due Process of law. The Due Process Clause of the Fourteenth amendment requires, at a minimum, that the government action have some rational basis. Defendants placement, and continuing injury or tort, since that date that reoccurs every time plaintiff is denied reasonable

accommodations for her requests. Defendants' placement in all-male facilities and disregard the fact that she is a woman, and has a female gender identity is irrational. Defendants' treatment of Ms. Noe also impermissibly burdens Ms. Noe's fundamental rights to autonomy and privacy, including her right to live as a woman and consistent with her female identity as set forth above, defendants' actions and failure to accommodate her gender dysphoria, and by disregarding Ms. Noe's status as a woman, and disregarding her female identity as set forth above, defendants' have violated the due process clause of the Fourteenth amendment.

64. Defendants' actions and failure to accommodate Ms. Noe attempts to all the stresses caused by her gender dysphoria have caused by her gender dysphoria have caused Ms. Noe to suffer from Depression, anxiety, strong urges to self-castrate, and suicide when it becomes overwhelming, to her, and she must seek assistance from staff, (Ms. TSMOURIS), AND HAVE IMPAIRED Ms. Noe's ability to participate in basic life activities.

#### COUNT FIVE

( 42 U.S.C. §1983 -- violation of Civil Rights)  
 DEFENDANTS ALL except ADA/ADAAA, Rehabilitation Code Defendants [TDCJ and UTMB].

65. Ms. Noe incorporates by reference the preceding paragraphs of her Complaint as though fully set forth herein.

66. Defendants are "persons" under 42 U.S.C. §1983 who acted "under the color of state law" and deprived Ms. Noe of

rights secured by the U.S. Constitution. Specific violations include:

a. Refusing her medical evaluations by trained and experienced professionals with intersex, lesbian, gay, bisexuals, transgender, and gender non-conforming persons as recommended by WPATH.ORG? Standard of care, and doctor Gordon, and other physicians. Ms. DOZIER, THE nurse-practitioner-provider claimed in the last interview (Exam)(six month review), she refused to provide these evaluations, or referral her to persons who could do the evaluations(Two trained and experienced physicians). She would say that. "TDCJ will not allow surgery services to transgender persons." (or words to that effect. Denying her individualized evaluations, on referrals to qualified physicians, as recommended by WPATH.org's SOC. See exhibit 7, attached to Appendix One.

b. Refusing to transfer the plaintiff to a female facility, or to safekeeping in general population. This denial was by Dana Sullivan, major and now assistant warden of Pack unit, at the other times. They initially, (2007), Determined that her birth sex, determined her, genitalia. While they later claimed in Step one responses. That they made PREA determinations, but that was pretextual as the plaintiff was there, and Mr. Sullivan did not mentioned any PREA comments, as he was only concerned with whether an imminent <sup>ext</sup> <sup>it did</sup> potential attack

on his person. While plaintiff proved that a series of attacks occurred, (on 02/08/2020, and again on 11/06/2022), and that he testified that plaintiff had been sexually assaulted by Mrs. Brown twice in 2021 and again on 2022, and by Ms. woodard, by touching her breast in Pat-down searches (each incident they took the word of the officer over the inmate's word), each time none of the witnesses were questioned during the investigation). Defendants' have refused transfer at step 1 & 2 Responses, and denied reasonable accommodations; by transferring her to a female unit., or placing her in safekeeping, or P.C.

c. Refusing to train TDCJ staff, and employees, or contractors, on how to appropriately, treat, and communicate with gender dysphoria;

d. Refusing to use her chosen female name when addressing or referring to Ms. Noe;

e. Refusing to use female pronouns when addresssing or referring Ms. Noe;

f. allowing male correctional officers to perform basic stripped searches (NAKED) in the front of other TDCJ's inmates, and allowed wandering patients, whom their doors were left un-lockedby medical staff discriminating against her gender dysphoria, these intentional acts and omissions, within the personal knowledge of Mr. Stover, Practice manager, whom was made aware of it filing step 1 & 2's grievances, that exhusted

GROUP SIX  
COUNT SIX

( FIRST AMENDMENT U.S. CONSTITUTION -- FREE SPEECH)

( Defendants COLLIER, SULLIVAN AND VILLALOBOS)

68. Ms. Noe incorporates by reference the preceding paragraphs of her complaint as though fully set forth herein.

Defendants Collier, SULLIMAN, AND VILLALOBOS, are "persons", who acted "under ~~clor~~ state law." and deprived the plaintiff of her rights secured by the U.S. Constitution. Specific violations include:

69. Defendants Sullivan, Collier, and N Villalobos deprived plaintiff of her First AMENDMENT to U.S. Const. to free speech and "Presentation" as a Women, and to have a Female gender identiy,

70. DEFENDANT Sullivan:

(a) By delibertely misgendering her by refusing to refer, or about her by her Chosen Female Name(Ms. Noe); Refusing to use female pronouns when referring to her or about her; Misgendering her by Using Male Pronouns when speaking to her or about her;

71. BRYANT COLLIER:

(a) By sending her corresponance that misGenders her, by using Male Prounouns, Other Current legal name: Michael D. Luke Noe[granting a legal name changed due to her relioun's beliefs; And the policy of treating all Gender Dysphoria, or transgender women as males, while in TDCJ, and Discriminatioing agaist against her sex, or Birth genitalia); By refusing to

Allow her access to the female commissary items allowed to non-transgender women(cis-gender woman), By having policies that are not so vague as to deny her medical and psychiatric(mental Health Dept) necessary to her presentation and transition to living fully as a women with access to Female clothing, dresses, and female items on the commissary necessary to such transition(s), By approving, acquiesces in, and following customs, without regards to the medical and mental health needs of plaintiff.

72. DEFENDANTS: Villabolos:

(a) By ignoring the misgendering by his subornates, whom violated the First Amendments Rights to "presentations" as a woman in transition(living fully as a woman), and denying her such transition[ing]by Implementation of policies, practice or customs that discriminate against plaintiff due to her sex, or sexual orientation; By upholding his subornates whom ~~he~~ knows, or should have ~~known~~ known violates the U.S. Const. First Amend. under the clearly established law.

(b)by allowing, acquiesced in, and upholding such const. violations alleged herein;

73, Dendants Lumpkins: The denial of treatment as alleged herein violates her right to present herself as a woman, due to her gender Dysphoria and female gender identity, which is torture under the Established law(U.N.), and most common laws.

#### COUNT SEVEN

( Religious land Use and Institutionalized Persons Act(RLUIPA )  
( 42 U. S. C. §2000cc-1 . )  
( DEFENDANTS COLLIER, LUMPKINS, SULLIVAN, VILLALOBOS)

= 74. Ms. Noe incorporates by reference the preceding paragraphs of her complaint as fully set forth herein.

Defendants' Collier, Lumpkins, Sullivan, and Villalobos violated the Religious Land Use And Institutionalized Persons Act, 42 U.S.C. §2000cc-1 et. seq., by imposing a substantial burden on the religious exercise of a person residing in or confined to an institution... unless the government demonstrate that imposition of the burden on that person--~~(1)~~ is in furtherance of a compelling state governmental interest; and ~~22~~<sup>15</sup> ~~the~~ the least restrictive means of furthering that compelling governmental interest" 42 U.S.C. §2000cc-~~(2)~~<sup>(2)</sup>(a). The Act defines "religious exercise" broadly to include "any exercise of religious, whether or not compelled by, or central to, a system of religious belief." Id. §2000cc-5(7)(A). Plaintiff was born again in being ~~baptized~~<sup>Baptized</sup> under the pentecostal faith. He submitted to a Texas District Court of Houston County, Tx., a petition to change her name for religious reasons, and it was granted in 1980. Under John 3:16, She sincerely believe that she was born again in Jesus Christ, as her savior. Plaintiff has contined in the Bible, and while she has some struggle with that Bible, and it's passages, She is lead by the Holy Ghost in striving to resolve those conflicts with her beliefs. She has filed a step 1 and 2 grievance, and it was deniel at both levels. She has written repeatedly to the State classification committe, by postage prepaid mail and she never



received a response.

75. Plaintiff has no plain, adequate, or complete remedies at law, and she has been, and continues to be subjected to irreparable, and in immedent danger to her future health and safety.

76. Plaintiff has been and will continue to be directly harmed or appromiately serious harmed by defendants conduct, and their acts or omissions.

#### PRAYER FOR RELIEF

WHEREFORE, Ms. Noe respectfully prays that this Court:

A. enter judgement in favor of Ms. Noe Against Defendants on Each of the Counts this complaint;

B. Issue injunctive relief against defendants ordering defendants not to disccrinate against Ms. Noe on the basis of her transgender status, her gender identity, her sex, and/or disability, including, but not limited to ordering to:

(1) Treat Ms. Noe the same as other women held by TDCJ;

(2) Transfer ms. Noe to a Female unit in TDCJ;

(3) Train all TDCJ's STAFF and Contractors, or TDCJ's employees; how to appropriately accomodate, treat, and communicate with individuals with GENDER DYSPHORIA;

(4) discipline all TDCJ's STAFF, CONTRACTORS, OR TDCJ EMPLOYEES who fail to appropriately treat, and <sup>accomodate a</sup> communicate with individuals with Grnder Dysphoria;

(5) Refer to Ms. Noe by her Chosen name, including on her ID card;

(6) Use only female pronouns when speaking to or about Ms. Noe;

(7) Only allow strip seaches of Ms. Noe to be conducted by female correctional officers, never male officers;

(8) Provide Ms. Noe a separate shower time for her "privacy" shower without the presence of men, and with a shower curtain that adequately covers her; and

(9) Plaintiff seeks expungement of the denial of her disciplinary of her assault on 02/08/2020, in which she filed a step 1 and 2 greivances , which both where denied on the merits, in this incident; plaintiff filed a complaint on the inmate, to this hate crime, which used used gender epitahs and slang (calling her a bitch, faggot). When the incident had occurred but the disciplinary was never expunged, even throught i explained I was attacked while Sgt Campbell and Ms. Sanders delayed and watched until the inmate struck her. Inmate W. Porter witnessed and gave a statement that the other inmate had struck me first. She exhausted all available remedies. Inmate of the second attack, had attacked the unit psychologists Ms. Tasmouris.

(10) Plaintiff sought as a reasonable accomodateion to be transported by van or small BUS directly to and directly from the hospital back to her assigned unit

C. Award Ms. Noe Reasonable costs and expenses of this action;

D. Award her <sup>nominal</sup> ~~actual~~ damages against each Defenant of \$1.00;


E. For ADA/ADAAA, and Section 504 of the Rehabilitation Act of 1973, For any conduct prove to be Intent <sup>ed</sup> ~~ed~~ to discriminate on the basis of her Disability.

F. Award reasonable attorney fees under 42 U.S.C. § 1983 and any other applicable law; and

G. Grant such other and further relief as this Court considers just, equitable, or proper.

DATED: <sup>June 08 2023 HHA</sup> ~~May 08~~, 2023.

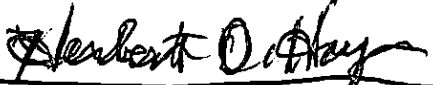
RESPECTFULLY SUBMMIED,

  
Herbert Darrell Hay, 2400 Wallace Rd  
#263672 / PACK UNIT  
NAVASOTA, TX77868-456700

IN PRO SE

VERIFICATION OF COMPLAINT

I Herbert Darrell Hay, Declare under the penalty Of perjury that those statements are true and correct. Excuted on This <sup>07</sup> ~~08~~ Day of <sup>June</sup> ~~May~~, 2023. 28 U.S.C. §1746.

  
Herbert D. Hay, #263672  
2400 Wallace Rd, (Pack Unit)  
NAVASOTA, TX 77868-456700

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In Pro Se